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July 23, 1997

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Mr. William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Mr. Caton:

Re: Ex Parte Meeting
MM Docket No. 95-176

Yesterday, representatives of The Weather Channel met with Gretchen Ruben, Anita Walgren, and Marsha McBride, legal advisors to Chairman Hundt, Commissioner Ness, and Commissioner Quello, respectively. The purpose of the meeting was to discuss why The Weather Channel merits an individual exemption from closed captioning in the above-referenced proceeding. Representatives of The Weather Channel included Mike Eckart, Becky Powhatan, and Michael Hammer.

During the meeting, The Weather Channel explained that closed captioning would reduce (1) public access to critical emergency weather information and (2) the production of new programming options for The Weather Channel's viewers. The Weather Channel also presented its view of the type of programming service that should be considered primarily textual. The enclosed memorandum -- which was distributed at the meeting -- summarizes The Weather Channel's discussion of the above points.

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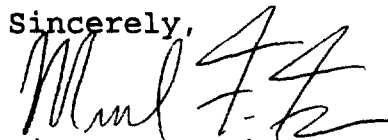
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As required by the Commission's rules, this letter and one copy are being submitted to the Secretary's office.

Sincerely,



Michael F. Finn

Enclosures

CC: Anita Walgren
Gretchen Ruben
Marsha McBride

THE COMMISSION SHOULD EXEMPT PRIMARILY TEXTUAL SERVICES FROM THE CLOSED CAPTIONING RULES BECAUSE THE BENEFIT OF CAPTIONING SUCH SERVICES WOULD BE MINIMAL.

Congress adopted the closed captioning provisions of the Telecommunications Act of 1996 to increase the accessibility of video programming to the hearing impaired. Congress also authorized the Commission to exempt certain services, or classes of services, from any closed captioning rules adopted by the Commission. A class exemption is warranted where, for example, the benefits of captioning would be relatively minor since the service is primarily textual and already accessible to the hearing impaired.

The Weather Channel believes that a programming service that satisfies the following criteria should be considered primarily textual and therefore qualified for an exemption from closed captioning:

- The service's principal information is conveyed through text and graphics¹ rendering any accompanying audio feeds substantially redundant. This element would be met if text and/or graphics occupy 50% of the screen at least 75% of the time that audio is available (measured on an annual basis).
- Any public safety information carried by the service is conveyed to the affected audience through on-screen text and/or graphics.

The percentage requirements in the above test are equal to or significantly higher than the percentage requirements for everyday items that must be handicap accessible under the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 *et seq* ("ADA"). For example, under the ADA, only 4 percent of parking spaces must be handicap accessible up to 100 parking spaces. 28 CFR Pt. 36, App. A, § 4.1.2(5)(a) (1996). Similarly, at least 5 percent, but no less than one toilet or bathing unit, must be handicap accessible, 28 CFR Pt. 36, App. A, § 4.1.2(6) (1996); at least 50% of all public entrances must be handicap accessible, 28 CFR Pt. 36, App. A, § 4.1.3(8) (1996); where more than one drinking fountain is provided on a floor, 50% of those provided shall be handicap accessible, 28 CFR Pt. 36, App. A, § 4.1.3(10) (1996); at least 5 percent, but not less than one, of the built-in seats or tables should be handicap accessible, 28 CFR Pt. 36, App. A, § 4.1.3(18), § 5.1 (1996); and at least 50% of each self-service shelf must be handicap accessible. 28 CFR Pt. 36, App. A, § 5.5 (1996).

¹ Graphics should be defined to include maps, charts, tables, icons, and other similar images.